



Tenancy Deposit Scheme

Adjudication Digest

No 04/2013

Now you see me, now you don't.....

- The Adjudication Digest takes a recent decision by a TDS Adjudicator and sets out the reasoning behind it. We hope that you will find these digests informative in understanding how we reach our adjudication decisions.
- This document is for guidance only – it is not intended to guarantee when an award will be made.
- Each dispute is different and the actual award made will be based on our interpretation of the specific evidence presented to us.

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The Adjudication Digest takes a recent decision by a TDS Adjudicator and sets out the reasoning behind the decision. The aim of these Digest reports is to help tenants, landlords and agents better understand how we make our adjudication decisions. The names of the landlords and tenants involved have been removed and this is only a brief summary of the dispute.

Amount of deposit in dispute:	£ 650.00
Dispute initiated by:	Landlord
Award made:	
Tenant	£ 0.00
Landlord	£ 650.00
Agent	£ 0.00

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The landlord was claiming £650.00 for rent in lieu of notice. A rent statement was provided. The tenants entered into a six-month fixed term Assured Shorthold Tenancy agreement, and carried on living in the property when the fixed term came to an end. Although the landlord was happy for the tenants to remain at first, the landlord subsequently decided to seek possession of the property when the relationship with the tenants soured. The tenants were served a Section 21 notice on 21st January 2013 advising them that the landlord required possession of the property on 11th April 2013.

On 8th March 2013, the tenants wrote to the landlord advising him that they had left the property and that no further rent was to be paid. The tenants argued that they had left the property early as this was what the landlord wanted. They say that they spoke to the landlord and he agreed that they could leave the property as soon as possible. They did not agree that they should be liable for any further rent. Although they didn't have anything in writing from the landlord, they asked that the adjudicator speak to them so that they could argue their case further.

The adjudicator considered that although the tenants vacated the property before the end of the tenancy, they did not serve adequate notice of when they intended to leave. The tenants were obliged to give one month's notice to end the tenancy which was to be given in writing on a rent payment date. Therefore they remained liable for the payment of rent until such time as their notice period expired or the end of the tenancy – in this case, the end of the tenancy as this occurred first.

So what are the key points here?

- The notice period for a tenant under this type of tenancy agreement is one month and is to be served in writing and on a rent payment date.
- The tenancy agreement, and other documentation produced by the landlord, gave little information about how notice periods work.
- This dispute may have been avoided had the landlord given the tenants a better explanation about how they in turn needed to give notice if they wanted to leave before April 2013. Given the argument between the parties, it could be perhaps understood how the tenants thought they were expected to leave by 11th April, and not on that date.
- The importance of putting things in writing cannot be understated – although the tenants were adamant that the landlord had agreed to them leaving sooner, without written evidence of this, the adjudicator could not find this to be the case. Adjudicators are only able to make a decision based on the merits of the evidence presented to them. Unlike a Court, the adjudicator cannot cross-examine witnesses.